



BEYOND YEAR 15:

EMERGING POLICIES PRESERVATION OF AFFORDABLE HOUSING

Governor's Housing Conference, Virginia 2003

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Reviewing the Big Picture

Goals of the Tax Credit Program

Public Policy: To Create Affordable Housing

- ❖ Attracts nearly \$6 billion of private investment each year.
 - ❖ Helps finance 115,000 units of affordable housing annually.
 - ❖ Helps stabilize neighborhoods.
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Reviewing the Big Picture

NEF's Portfolio



- ❖ 1,150 Projects / 59,000 Affordable Units
- ❖ \$3.8 billion in Equity Raised from 150 Investors
- ❖ Located in 39 States + District of Columbia
- ❖ 16 Projects in Virginia

Project Dispositions by Year 16

<u>Year</u>	<u>#</u>	<u>Location</u>
2003	10	CA, IN, MN, MO, NY
2004	19	CA, CT, MI, MN, MO, NY
2005	39	CA, FL, IN, MA, MN, MO, NY

Reviewing the Big Picture

State of Virginia – Portfolio

Source: VHDA

❖ 676 Projects / 62,100 Affordable Units

❖ *Largest Percentage of Projects (MSA)*

Washington MSA: 24%

Norfolk MSA: 22%

Richmond MSA: 17%

❖ *Project Dispositions by Year 16*

2003: 3 projects

2004: 24 projects

2005: 24 projects

2006: 27 projects

Framing the Issues:

Significance of Year-15

First opportunity to Transfer Ownership

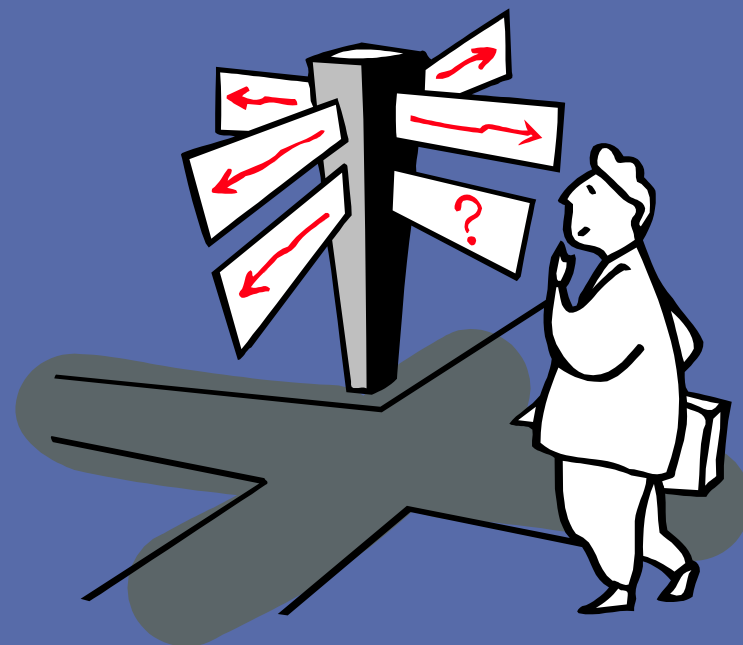
- ❖ No risk of tax-credit recapture.
 - ❖ Tax-credit transactions are structured as 15-year investments, corresponding to the end of the initial compliance period.
 - ❖ Transfer may occur as a sale of the real estate or a sale of the limited partner's interest.
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The Stakeholders

- ❖ General Partners / Sponsors /Developers
- ❖ Investors
- ❖ Syndicators
- ❖ Private Lenders
- ❖ Public Lenders
- ❖ Allocating Agencies



*As a General Partner...
How do I Start to Analyze
Year 15 Options and Opportunities?*



Determining Year 15

❖ Tax Credit Compliance Begins:

- The first year a qualified building is PIS or the year after the building was PIS (taxpayer election on Form 8609).
- The first year tax credits are recorded on tax returns.

❖ Tax Credit Compliance Ends:

- The last day of the year, of year 15 (12/31).
- May be different for different buildings.



Process / Timeline

- ❖ Develop Project Exit Strategy Prior to Year 15
 - Acquire property or sell to a third party.
- ❖ Contact Stakeholders Prior to Year 15 to Explore Options
- ❖ Exit during First Quarter of Year 16



Exit Strategy Options

Acquisition of Real Estate or L.P. Interest:

- ❖ Continue Current Operations
 - ❖ Rehabilitate through Resyndication or Refinancing
 - ❖ Homeownership (Lease-Purchase)
 - ❖ Sell to Third Party
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Purchase Proposal Components

- ❖ **Intended Ongoing Use of the Property**
 - Targeted market.
 - Capital needs to remain viable or to reposition the project.

- ❖ **Outstanding Partnership Debt Analysis**
 - Refinance or assumption of debt.



(continued)

Purchase Proposal Components

❖ Proposed Purchase Price Analysis

- Review limited partnership agreement.
- Right of First Refusal at Minimum Purchase Price or “debt + taxes”; may have additional price components.
- Purchase Option at fair market value; appraisal may be required.

❖ Remaining Cash Assets

- Partnership assets are distributed in accordance to allocation rules and the L.P. agreement.
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Exit Tax Calculation

- ❖ Simply stated, if the cumulative taxable losses realized by the investor Limited Partner exceed that Limited Partner's capital contributions to the project (negative capital account), there will be an exit tax liability.

-Need to be aware of book to tax differences on tax returns.

Example

Negative Capital Account at Year 15:	(\$293,000)
<i>multiplied by</i>	
35% (investor's federal tax rate):	\$102,550
<i>multiplied by</i>	
1.35 (one-time gross-up):	\$138,443

Options for Paying Exit Taxes

- ❖ New Financing to Take-out Existing Bank Debt
- Financing Sufficient to Pay for Taxes
 - ❖ Resyndication with Purchase Price by
New Partnership Sufficient to Pay Taxes
 - ❖ Apply Cash Reserves to Payment of Taxes
if Stipulated in Agreement or Agreed
to by Limited Partner
 - ❖ Use Sponsor Assets
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Summary Action Plan For Potential Purchasers of Year 15 Projects

- ❖ Develop Plan for Continued Operations during Years 13-14 of the Compliance Period
- ❖ Analyze Partnership Debt:
 - Opportunities and requirements for assumption of debt by purchaser or for forgiveness of debt
 - Meet with Lenders
- ❖ Determine Purchase Price: Debt + Exit Taxes



(continued)

Summary Action Plan For Potential Purchasers of Year 15 Projects

- ❖ Explore New Sources of Financing to Meet Purchase Price and Capital Needs:
 - Resyndication
 - New conventional debt; new soft loan sources
 - ❖ Consult with Accountants and Attorneys
 - ❖ Meet with Syndicator
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LISC Focus

- USDA §515
 - HUD Assisted (mortgage subsidy, Section 8)
 - Year 15 LIHTC
 - Conventional Affordable Housing
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LISC Activities

- Strategic Assistance to LISC Local Programs
 - Partnerships with Regional and National Nonprofits
 - Information Resources
 - Strategies for Rapid Nonprofit Response
 - Integrated With LISC Support To:
 - Housing Authorities (HARC)
 - Tax Credit Syndication (NEF)
 - Multifamily Purchase/Refinance (CDT)
 - Training and Consulting (ODI)
 - Information Dissemination (KSI)
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LISC Accomplishments

- \$28.4 million loaned to 42 preservation projects with 7,904 units (since 2001).
 - Technical assistance to 52 projects with over 9,900 units and TDC over \$750m (since 2001).
 - *Stemming the Tide: A Handbook on Preserving Subsidized Multifamily Housing.*
 - Preservation Practitioners' Listserv.
 - Preservation website: www.liscnet.org/preservation
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Stakeholders

- LISC
 - Community Development Corporations
 - Mayor, Local Leaders
 - Housing Authority
 - City Redevelopment Authority
 - State Housing Finance Agency/DCD
 - Legal Services/Tenant Advocates
 - Owners
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Preservation: Why Me? Why Now?

- Loss of affordable rental units places additional strain on affordable housing stock of communities;
 - Preservation activity addresses a critical housing need;
 - Preservation is an appropriate use of state and local resources;
 - Preservation is within the existing capacity of many CDCs;
 - Preservation can generate development and management fees.
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Preservation Challenges

(Why is this property in play?)

- Subsidized mortgage prepayment (end of regulatory agreement)
 - Section 8 HAP contract expiration/opt-out (loss of subsidy)
 - LIHTC year 15 (end of regulatory agreement)
 - Need for recapitalization
 - Economic distortions/disinvestment (exit tax problem)
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Elements of Success

- Institutional Relationships
 - Technical Expertise
 - Knowledge of the Stock
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Challenges

- Existing population: social, economic, LIHTC eligibility issues
 - Section 8 renewal risk: annual appropriations
 - Multiple regulatory overlays
 - Diminished Administration capacity, inconsistent implementation
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Resources

- IRP Decoupling
 - Section 8 Mark *Up* to Market (or Budget)
 - OMHAR Mark [*Down*] to Market (Mortgage Restructuring)
 - Enhanced Vouchers
 - §515 Mortgage Subordination
 - State and Local Resources; QAP Preferences
 - Other Regulatory Restrictions (Constrained Income/Value)
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Virginia Preservation Incentives

	Incentive
LIHTC QAP Bonus Points	Section 8, Section 236 or RD Section 515 projects. For sufficient new project-based subsidy from HUD or RD. For commitment to provide relocation assistance
VHF	\$25 Million @ 4.0%, including preservation

Policy Agenda

- §515 prepayment rights
 - Enhanced vouchers for nonprofit owners
 - §202 refinancing implementation
 - IRP pool §236 grants & loans
 - Preservation matching grants (H.R. 4450)
 - Court decisions re: prepayment, preemption
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Policy Agenda

- Dividend tax relief/LIHTC problem
 - Termination of Section 8 contracts upon refinancing of bond-financed projects
 - Exit tax
 - Block Grant of Section 8 Vouchers to States
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How LISC Can Help

LISC can help CDCs and communities to:

- Assess individual deals;
 - Identify critical regulatory issues;
 - Identify partners to take on projects or build a local preservation network;
 - Help develop preservation strategies in communities with significant at-risk stock.
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